

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)

Amendment of the Commission's Rules)
Concerning Maritime Communications)

PR Docket No. 92-257

RECEIVED

SEP 30 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

REPLY COMMENTS
OF BR COMMUNICATIONS

BR Communications ("BRC"), by its attorneys, hereby responds to certain of the comments filed in response to the Second Notice of Proposed Rulemaking (the "Second NPRM") in the above-captioned proceeding, released June 26, 1997.

I. BACKGROUND AND STATEMENT OF INTEREST.

BR Communications pioneered a linear FMCW "Chirpsounder[®]" technology that is the *de facto* standard for much of the world's HF radio frequency management system. Since December of 1994, BRC has conducted a series of tests to determine the most effective and efficient means of integrating the benefits of this technology into existing HF maritime communications systems. In the Second Report and Order in this proceeding, the Commission, at BRC's urging, adopted rules permitting the use of Chirpsounder and other automatic link establishment technologies in the HF bands.¹

BRC's affiliate, TCI Wireless ("TCIW"), is the licensee of public coast station KCK in Hawaii and currently is in the process of integrating BRC's Chirpsounder technology into an international commercial HF communications system providing data and voice communications.

II. THE COMMISSION SHOULD AMEND ITS HF LICENSING RULES IN A MANNER THAT PROMOTES COMPETITION IN THE MARITIME SERVICE.

In the Second NPRM, the Commission proposed several changes to its existing licensing rules for HF spectrum. Most importantly, it proposed: (1) to use auctions to resolve mutually exclusive initial applications for HF public correspondence channels; and (2) to eliminate the requirement that HF public coast station licensees and

¹ Second R&O at ¶¶ 41-44.

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applicants make a channel loading showing in order to obtain multiple HF channels in a frequency band.²

BRC supports the Commission's proposals but urges the Commission to implement the proposed changes in a manner that promotes competition within the maritime service. In addition, BR urges the Commission to take certain additional steps that will promote the development of competition in the HF maritime market and make possible the delivery of new services to maritime and other users.

First, in drafting its HF competitive bidding procedures, the Commission should reject the argument that incumbent licensees deserve a preference in the auction process and, instead, should adopt its proposal not to provide special consideration to incumbents.³ In order to re-invigorate the HF service and promote the development of new maritime services, the Commission should give new entrants at least an equal opportunity to obtain spectrum. Indeed, if anything, the Commission should offer new entrants special treatment in the auction process in order to equalize the playing field as between the incumbents and new entrants.⁴

Second, in modifying its channel loading requirements, the Commission should adopt Globe Wireless' suggestion that existing licensees who are seeking additional HF channels be required to demonstrate that they are serving customers using their existing frequencies.⁵ No similar showing should be required of new entrants, since these entities by definition have no existing frequencies and are not yet able to serve customers. New entrants, of course, would be required to comply with the proposed one-year construction deadline and, after receiving their initial license, would be

² After the Second NPRM was issued, Congress amended the Commission's auction authority as part of the 1997 budget agreement. 105 P.L. 33, 111 Stat. 251, § 3002 (1997). Under this new legislation, the FCC must use auctions to award initial licenses and construction permits in virtually all cases where mutually exclusivity exists.

³ Second NPRM at ¶ 81; but see Comments of Ross Engineering Co. at 3; Comments of WJG MariTEL at 3-4; cf. Comments of Mobile Marine Radio, Inc. at 9-10. While the "no special preferences" proposal was made in the context of auctions to award VHF public coast licenses, its logic applies equally to auctions to award HF public coast licenses.

⁴ Many incumbents obtained spectrum decades ago. Under the FCC's rules, they are allowed to hold onto this spectrum without making any showing that it is being used to provide service. As a result, they already have a substantial advantage vis-a-vis new entrants.

⁵ Comments of Globe Wireless at 3.

required to make the showing described by Globe Wireless in order to obtain additional spectrum.

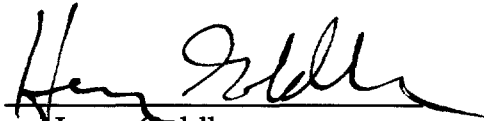
Third, the Commission should reject Mobile Marine Radio, Inc.'s ("MMR") suggestion that, as part of the construction requirement, licensees should be required to install sufficient transmitters to provide service on all authorized frequencies, as opposed to having a frequency agile transmitter.⁶ Such an approach would prevent licensees from using modern broadband antennas and radio amplifiers, locking them instead into outdated, 1960's-era architectures. Moreover, it would increase dramatically the costs of placing a new coast station into service and, as a result, would undermine the development of competition in the maritime service.

Finally, as proposed by Globe Wireless, the Commission should integrate into this rulemaking any changes to the international regulations governing the use of digital technologies in the HF bands that are adopted at WRC-97.⁷ The U.S. proposal to permit the use of digital technology in certain HF bands would increase the flexibility of HF service providers and allow them to offer new services free from the outdated constraints of the existing rules. If WRC-97 adopts the U.S. proposal, the Commission should ensure that its rules promptly reflect this new flexibility.

Respectfully submitted,

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⁶ Comments of MMR at 10, 13.

⁷ Comments of Globe Wireless at 2-3.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Reply for BR Communications was sent by first-class mail, postage prepaid, this 30th day of September, 1997, to each of the following:

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